

### **ADVISORY OPINION 2000-006**

**Any advisory opinion rendered by the registry under subsection (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered. KRS 121.135(4).**

June 5, 2000

Mr. John Stephenson  
213 Beechwood Road  
Fort Mitchell, Kentucky 41017

Dear Mr. Stephenson:

This is in response to your May 12, 2000 letter requesting an advisory opinion regarding a public access cable television program that you produce and wish to continue to produce while campaigning for Kentucky State Senator. You ask whether under Kentucky campaign finance law you may continue to air your program and prior speeches on public access television.

With your letter, you have submitted a video copy of the program, including speeches made by you during prior campaigns for Kentucky Superintendent of Public Instruction and a recent speech made at a meeting of the Telecommunications Board of Northern Kentucky in which you reference your candidacy for State Senator. The video of the speeches include text overlays such as the following:

- (1) “John wants to go back to Frankfort as your voice!”
- (2) “John would like to bring June and the people of Northern Kentucky to Frankfort one more time to finish the work the Lord began.”

- (3) “I want to be your voice in Frankfort...your elected voice...your person that will take your complaints to the powers that be...”

Finally, during your regular program, “Plain Folks & Common Sense,” you include a text overlay referencing your campaign website, [WWW.JStephenson.com](http://WWW.JStephenson.com) and an invitation for viewers to attend a political rally.

KRS 121.190(1) provides that “[f]or television and radio broadcasts, compliance with Federal Communications Commission [“FCC”] regulations regarding sponsored programs and broadcasts by candidates for public office shall be considered compliance with this section.” Therefore, as provided in KRS 121.190(1), the regulation of a candidate’s political television and radio broadcasts is not within the Registry’s jurisdiction.

However, KRS 121.180(3) does require you to report all contributions and expenditures, including expenditures for advertising expressly advocating your election as defined by KRS 121.065(2) and KRS 121.190(1). Specifically, communications that go beyond “issue discussion to express electoral advocacy” and provide “in effect an explicit directive” are subject to state reporting requirements. Federal Election Comm’n v. Massachusetts Citizens for Life, Inc., 479 U.S. 238, 249 (1986); see also KREF Advisory Opinions 1998-004 and 1997-010 (opining that regular business communications that do not reference a person’s candidacy are not within the jurisdiction of the Registry). Therefore, you should report the costs of any communications, such as the programming submitted by you containing the above-referenced exhortations and reference to your campaign website, which expressly advocate your candidacy.

This opinion reflects the Registry’s consideration of the specific transactions posed by your letter. If you have any additional questions, please do not hesitate to contact the Registry staff.

Sincerely,

Rosemary F. Center  
General Counsel

RFC/jh

Cc: Registry Members  
Sarah M. Jackson, Executive Director